



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

1/0213

OFFICE OF ENFORCEMENT

JUN 22 1994

Ms. Carol Ann Lenahan
Supervisor/Secretary
Foster Township Board of Supervisors
1000 Wyoming Avenue
Post Office Box 465
Freeland, Pennsylvania 18224

Dear Ms. Lenahan:

Thank You for your letter of May 10, 1994 to Elliott Laws expressing your concerns regarding the C&D Recycling Site (Site). Mr. Laws asked me to contact you to respond to your concerns.

AT&T requested a Headquarters internal review of the remedy, by submitting a petition to modify the remedy on September 30, 1993. In addition, on April 13, 1994, AT&T requested a meeting with Headquarters officials to discuss the review and the petition.

During the past few months, the Office of Site Remediation Enforcement, formerly the Office of Waste Programs Enforcement (OWPE), conducted a review of the remedy selection process used at the Site within the context of our internal delegations and policies, and the Site characteristics. Recently, OWPE sent a letter to AT&T (copy enclosed) indicating that we saw no reason to intervene in this matter. Moreover, we denied AT&T's request for a meeting.

Your question concerning the zoning in the area of the Site as a Conservation District is best addressed by the Commonwealth of Pennsylvania. I am, however, aware that the Commonwealth did not identify the Conservation District as an ARAR ("applicable, relevant, and appropriate" requirement) for on-site containment. They also did not appear to have concerns about on-site containment as long as its Residual Waste Regulations were met.

AR313957



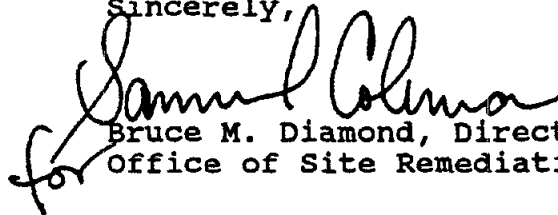
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Regarding the building moratorium, the scope of authority of the Federal government under CERCLA is limited to the C&D Recycling Site, itself. EPA is not able to regulate off-site construction activities unless they impact the cleanup of the site or unless the property owner willingly enters into an agreement with the government to restrict the use of the property. Even in the latter case, enforcement of local property restrictions falls within the purview of state and local governments.

In closing, thank you for the information concerning the residents of Hickory Hills. I appreciate knowing the level of support for the selected off-site remedial action.

I hope our actions allay your concerns. Please do not hesitate to contact my office with any other questions or concerns. Specific questions about the remedy selected for the Site can best be addressed by the Director, Hazardous Waste Management Division, U.S. EPA Region III, 841 Chestnut Building, Philadelphia, PA 19107.

Sincerely,

A handwritten signature in cursive script, appearing to read "Samuel Coleman". The signature is written in dark ink and is positioned above the typed name and title.

Bruce M. Diamond, Director

for Office of Site Remediation Enforcement

Enclosure

AR313958



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUN 6 1994

OFFICE OF
SOLID WASTE AND EMERGENCY
RESPONSE

Ralph L. McMurry, Esq.
Senior Attorney
AT&T
Room B2168
131 Morristown Road
Basking Ridge, New Jersey 07920-1650

Re: C&D Recycling Site, Foster Township, Pennsylvania
Petition of AT&T Nassau Metals Corporation to
Amend the Record of Decision

Dear Mr. McMurry:

Administrator Browner's office referred your correspondence of September 30, 1993, and December 21, 1993, to my office for response. Please excuse our long delay in responding but the review of the activities concerning the C&D Recycling Site (Site) has been complex. We conducted a thorough review of what led to the September 30, 1992 remedy selection decision as well as the later activities involving the Site. The review entailed inquiries and coordination with the U.S. Environmental Protection Agency (EPA) Region III office, the Commonwealth of Pennsylvania, and a considerable amount of document review, in addition to review of our internal policies and delegations. During the review process, we also coordinated with EPA's Office of General Counsel on procedural questions.

As an initial matter, I believe that Region III has, for several years, responded to the issues raised by your client, AT&T Nassau Metals Corporation (AT&T), regarding the Site. EPA Headquarters has been involved in an advisory and review capacity regarding the Site since the draft final Risk Assessment was received and a Proposed Plan was being developed in late 1991.

While I understand your concerns, remedy selection decisions are delegated to the Regional Administrators and require the consideration of many factors. Using this authority, Acting Regional Administrator Stanley Laskowski signed the Record of Decision (ROD) for the Site on September 30, 1992. The Region selected stabilization with off-site disposal of the contaminated materials at the Site. The ROD allowed for modification of the remedy if certain information was provided within 180 days.

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AT&T then provided information to Region III relevant to modifying the remedy. Region III and the Pennsylvania Department of Environmental Resources (PADER) reviewed these materials. In a letter to AT&T dated July 27, 1993, Region III confirmed that off-site disposal is the most appropriate remedy for the Site and furnished AT&T with a detailed rationale supporting this decision. After reviewing the materials and discussing the information with the Regional office, we see no reason for intervening in the Region III remedy selection process, as delegated. For this reason, we also see no need for the meeting which you requested in your letter of April 13, 1994.

If you still wish additional information, please work with Region III. Contacts in the Regional office are Joseph McDowell, Remedial Project Manager, at (215) 597-8240 and Laura M. Bulatao, Assistant Regional Counsel, at (215) 597-8448.

Sincerely,



Bruce M. Diamond, Director
Office of Waste Programs Enforcement

cc: Abraham Ferdas (3HW02)

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